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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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08/10/2006

Jean-Pierre Voigtman

VOIGTMANN, J-1 PCT

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7590

06/15/2007

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EXAMINER

WEEKS, GLORIA R

ART UNIT

PAPER NUMBER

3721

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DELIVERY MODE

06/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/552,792

Applicant(s)

VOIGTMANN, JEAN-PIERRE

Examiner

Gloria R. Weeks

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 5/7/07; 8/10/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Oath/Declaration***

2. It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

***Specification***

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

**Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).

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- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "each collapsible tube in the intermediate storage is in contact with two collapsible tubes on top of it". This limitation is found to be indefinite since the collapsible tubes on the top row of the intermediate storage of Applicant's invention will not have a row of collapsible tubes positioned above them.

Claim 9 recites the limitation "wherein conveyor belts for the supply of empty and the removal of full package containers" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim since Applicant has only claimed a conveyor belt for the supply of the empty collapsible tubes, and merely conveying the packaging containers of collapsible tubes without defining a specific means of conveying the packaging containers of collapsible tubes.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4-6 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Franz (USPN 4,231,697).

In reference to claims 1, 2, 4-6 and 9-11, Franz discloses a method of automatically packaging collapsible (plastic) tubes B, the method comprising the steps: compacting (movement of conveyor 34 of tubes B against stopper 36) the collapsible tubes into a row without gaps between spaced arms 40; supplying several rows of the collapsible tubes to an intermediate storage 22 until a sufficient number of empty collapsible tubes are achieved (column 5 lines 12-14), and the row of collapsible tubes are in touching contact with one another, wherein the intermediate storage is provided with a fixed base plate 16, adjustable lateral guards 40, 42, adjustable limiting plates 62, and at least two sets 38, 64, 76 of strips that move the bottom of the collapsible tubes; positioning a plurality of collapsible tubes such that each of the plurality of collapsible tubes are in contact with two collapsible tubes on top of the each collapsible tubes (via divider 90; figure 5); a moving slide 38, 92 jointly transferring the rows into a packaging container 88 positioned on a holding fork 80; wherein the conveyor 34 and the packaging conveying means are arranged at different levels (figure 4).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franz (USPN 4,231,697) in view of Taggart (USPN 6,475,435).

Regarding claim 3, Franz discloses a method of packaging tubes, wherein the tubes are conveyed by a conveyor belt, but does not disclose the conveyor belt having trays that receive the tube(s). Taggart teach a method of packaging tubes, wherein the tubes are conveyed in trays 94 of a conveyor belt. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Franz to include conveyor belts with trays, since column 8 lines 21-22 of Taggart suggests that such a modification allows for the tubes to be properly positioned on the conveyor.

10. Claims 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Franz (USPN 4,231,697) in view of Prakken et al. (USPN 5,778,640).

In reference to claims 7 and 8, Franz discloses a method of packaging tubes in a container, wherein the tubes are arranged in rows in an intermediate storage area and subsequently pushed into a container. However, Franz does not disclose the orientation of the container with respect to the containers during the step of transferring the rows of tubes to the container. Prakken et al. teaches a method of packaging product into a container, comprising the steps of: supplying a row of products to an intermediate storage area 12; and arranging a container 38 behind the intermediate storage area 12, such that the container 38 is supported on a swivable and vertically adjustable holding fork 48. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Franz to provide a swivable and vertically adjustable holding fork for the container in which the tubes are

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transferred, since column 3 line 63-column 4 line 3 of Prakken et al. states the such a modification reduces the transfer distance between the product and the container, thereby speeding up the loading cycle.

11. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franz (USPN 4,231,697) in view of Wagner et al. (USPN 4,236,855).

With respect to claim 12, Franz discloses a method of packaging tubes, wherein the intermediate storage is provided with a fixed base plate 14, adjustable lateral guards 40, 42, adjustable limiting plates 62, and a bottom plate 22 adjustable with respect to the base plate 14. Franz does not disclose at least two sets of movable bottom strips that pass through the base plate. Wagner et al. teaches a method of packaging wherein an intermediate storage is provided, the intermediate storage having at least two sets of movable bottom strips 132 that pass through a fixed base 134. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Franz to provide movable bottom strips in place of the movable bottom plate, since Wagner et al. suggests that movable bottom strips that pass through a fixed base are a known structure for lowering a stack to an alternative surface.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473.

The examiner can normally be reached on M-F 8am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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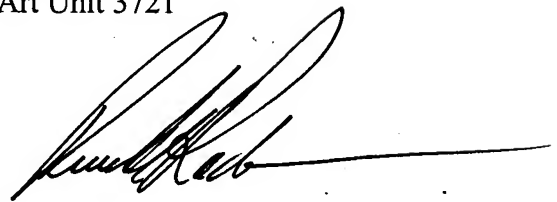
Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

Gloria R. Weeks  
Examiner  
Art Unit 3721

/GRW/

June 11, 2007

A handwritten signature in black ink, appearing to read 'Arnaldi I. Rada', with a long horizontal line extending to the right.

Arnaldi I. Rada  
Supervisory Patent Examiner  
Group 3700